

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

**DISH NETWORK L.L.C.**  
and **NAGRASTAR LLC**,

Plaintiffs,

v.

**DEBRA HENDERSON, JOHN  
HENDERSON, and BOOM MEDIA LLC**,

Defendants.

Case No. 5:19-CV-1310 MAD/ATB

**DECLARATION OF TIMOTHY FRANK**

I, TIMOTHY FRANK, of Houston, Texas declare as follows:

1. I am a partner at Hagan Noll & Boyle LLC and licensed to practice law in Texas and California. I am admitted *pro hac vice* for the purpose of representing Plaintiffs in this case.
2. Defendant John Henderson was personally served with the summons and complaint on October 30, 2019, both in his individual capacity and as the registered agent of Defendant Boom Media LLC. (Dkts. 10-11.) Service on Defendant John Henderson was proper under Fed. R. Civ. P. 4(e)(2)(A), while service on Defendant Boom Media LLC was proper under Rule 4(h)(1)(B).
3. Defendant Debra Henderson was personally served with the summons and complaint on October 31, 2019. (Dkt. 12.) Service was proper under Rule 4(e)(2)(A).
4. Defendants received two extensions of time to respond to the complaint, the second of which extended the response deadline to December 24, 2019. (Dkts. 15, 17.)
5. The Clerk entered default against Defendants on December 27, 2019. (Dkt. 19.)
6. Defendant John Henderson was then granted a third extension of time to respond to the complaint, which extended his response deadline to March 16, 2020. (Dkt. 22.)
7. Plaintiffs requested the Clerk's entry of default against Defendant John Henderson a second time on March 31, 2020, unclear whether the previous default had been set aside. (Dkt. 24.)

8. The Courtroom Clerk informed Plaintiffs on April 1, 2020 that the second request for default was unnecessary, all Defendants remained in default, and that Plaintiffs should proceed with filing their motion for default judgment.

9. Attached as Exhibit 1 is a true and correct copy of the relevant portion of a CLEAR report for Defendant John Henderson, redacted pursuant to Fed. R. Civ. P. 5.2, showing that he is approximately 37 years old.

10. Attached as Exhibit 2 is a true and correct copy of the search results that I obtained on April 16, 2020 from the Servicemembers' Civil Relief Act website located at <https://scra-w.dmdc.osd.mil/scra/#/home>, where I conducted a search using Defendant John Henderson's first and last name, date of birth, and social security number, as listed in his CLEAR report. The search results show that Defendant John Henderson is not on active duty in the United States military or otherwise exempt under the Servicemembers' Civil Relief Act.

11. Attached as Exhibit 3 is a true and correct copy of the relevant portion of a CLEAR report for Defendant Debra Henderson, redacted pursuant to Fed. R. Civ. P. 5.2, showing that she is approximately 65 years old.

12. Attached as Exhibit 4 is a true and correct copy of the search results that I obtained on April 16, 2020 from the Servicemembers' Civil Relief Act website located at <https://scra-w.dmdc.osd.mil/scra/#/home>, where I conducted a search using Defendant Debra Henderson's first and last name, date of birth, and social security number, as listed in her CLEAR report. The search results show that Defendant Debra Henderson is not on active duty in the United States military or otherwise exempt under the Servicemembers' Civil Relief Act.

13. I am not aware of facts that would show or suggest that any Defendant is incompetent. Defendant John Henderson appears in multiple videos posted to the Boom Media YouTube channel, available at [https://www.youtube.com/channel/UCTH9JI2VutH-ogWXy\\_Xyp6Q](https://www.youtube.com/channel/UCTH9JI2VutH-ogWXy_Xyp6Q), where he speaks to the pay-television rebroadcasting services at issue in this case and conducts Q&A sessions with his viewers, which evidences his competence. Defendant Debra Henderson's PayPal account was used to receive payments relating to the rebroadcasting services, evidencing her competence. (Dkt.

1 ¶ 18.) At no time during my discussions with Defendants' former counsel, or with Defendant John Henderson directly once that legal representation ended, was I informed that Defendant John Henderson or his mother Defendant Debra Henderson is incompetent.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 16, 2020.

/s/ Timothy M. Frank  
Timothy M. Frank